

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION

GTE North Incorporated, GTE	:	
South Incorporated and PV Tel	:	
	:	
Joint petition of GTE North	:	00-0129
Incorporated, GTE South	:	
Incorporated and PV Tel Pursuant	:	
to 47 U.S.C. §252(i) Regarding	:	
Adoption of an Interconnection	:	
Agreement.	:	

ORDER

By the Commission:

I. PROCEDURAL HISTORY

On February 4, 2000, GTE North Incorporated, GTE South Incorporated, (collectively "GTE") and PV Tel ("PV Tel") (GTE and PV Tel are referred to collectively as "Petitioners") filed with the Illinois Commerce Commission ("Commission") a verified joint petition seeking the Commission's approval of adoption of an interconnection agreement, to wit, the Interconnection Agreement ("Agreement") between GTE and AT&T Communications of Illinois, Inc, approved by the Commission in Docket No. 96-AB-005, pursuant to Sections 252(a)(1) and 252(e) of the federal Telecommunications Act of 1996 ("Telecommunications Act"), 47 U.S.C. 151 et seq. The Agreement was filed with the joint petition and supported by the verified statement of James R. Hargrave, Assistant Vice President - Regulatory and Governmental Affairs for GTE North Incorporated.

Pursuant to due notice, this matter came on for hearing before a duly authorized Hearing Examiner of the Commission at its offices in Springfield, Illinois on February 23 and March 30, 2000. Appearances were entered by counsel on behalf of GTE and Commission Staff ("Staff"). Staff entered into evidence the verified statement of A. John M. Garvey of the Commission's Telecommunications Division as Staff Exhibit 1. In his statement, Mr. Garvey recommended approval of the Agreement. At the conclusion of the hearing, the record was marked "Heard and Taken."

II. SECTION 252 OF THE TELECOMMUNICATIONS ACT

Section 252(a)(1) of the Act allows parties to enter into negotiated agreements regarding requests for interconnection, services, or network elements pursuant to

Section 251. Petitioners have negotiated such an Agreement, and have submitted it for approval in this proceeding.

Section 252(a) of the Act provides, in part, that "[a]ny interconnection agreement adopted by negotiation . . . shall be submitted for approval to the State commission." Section 252(e)(1) provides that a State commission to which such an agreement is submitted "shall approve or reject the agreement, with written findings as to any deficiencies." Section 252(e)(2) provides that the State commission may only reject the negotiated agreement if it finds that "the agreement (or portion thereof) discriminates against a telecommunications carrier not a party to the agreement" or that "the implementation of such agreement (or portion thereof) is not consistent with the public interest, convenience, and necessity."

Section 252(e)(4) provides that the agreement shall be deemed approved if the State commission fails to act within 90 days after submission by the parties. This provision further states that "[n]o State court shall have jurisdiction to review the action of a State commission in approving or rejecting an agreement under this section." Section 252(e)(5) provides for preemption by the Federal Communications Commission if a State commission fails to carry out its responsibility and Section 252(e)(6) provides that any party aggrieved by a State commission's determination on a negotiated agreement may bring an action in an appropriate Federal district court.

Section 252(h) requires a State commission to make a copy of each agreement approved under subsection (e) "available for public inspection and copying within 10 days after the agreement or statement is approved." Section 252(i) requires a local exchange carrier to "make available any interconnection, service, or network element provided under an agreement approved under this section to which it is a party to any other requesting telecommunications carrier upon the same terms and conditions as those provided in the agreement."

III. THE AGREEMENT

The adoption of the Agreement between GTE and PV Tel was arrived at through voluntary negotiations. The term of the Agreement expires on June 28, 2002 and shall continue in effect for consecutive six month terms until either party gives the other party at least ninety (90) calendar days written notice of termination; in such case, termination shall be effective at the end of the then current term. The Agreement provides for GTE's provision of telecommunications services at wholesale rates to PV Tel for purposes of resale. The rates for GTE's services available for resale are based upon an avoided cost discount from GTE's retail rates.

IV. POSITION OF STAFF

Staff reviewed the Agreement in light of the criteria contained in Section 252(e)(2)(A) of the Act. Under this section, the Commission may only reject an

agreement, or any portion thereof, adopted by negotiation under subsection (a) if it finds that (i) the agreement, or a portion thereof, discriminates against a telecommunications carrier not a party to the agreement; or (ii) the implementation of such agreement, or a portion thereof, is not consistent with the public interest, convenience, and necessity. Staff concluded that the Agreement does not discriminate against a telecommunications carrier not a party to the Agreement and that the implementation of the Agreement would be consistent with the public interest, convenience and necessity. The Commission concurs with Staff's position.

The Commission also notes that Petitioners attached as Exhibit 1 to the joint petition copies of letters exchanged between Petitioners concerning certain proposed modifications to the Agreement. At the hearing, Petitioners indicated that the letters in Exhibit 1 do not in any way modify the GTE-AT&T agreement that is to be adopted in this proceeding. With this understanding, the Commission concludes that the Agreement should be approved subject to the following implementation requirements.

Concerning the implementation of the Agreement, Staff recommends that the Commission require GTE, within five (5) days from the date the Agreement is approved, to modify its tariffs to reference the negotiated agreement for each service. Staff states that this requirement is consistent with the Commission's Orders in previous negotiated agreement dockets and allows interested parties access to the Agreement. Staff recommends that such references be contained in the following section of GTE's tariffs: Agreements with Telecommunications Carriers (ICC No. 10, Section 18). Staff also recommends that the Commission require that GTE file a copy of the approved Agreement within five (5) days from the date the Agreement is approved with the Chief Clerk's Office to be placed in a separate binder. The Commission Staff's recommendations regarding implementation of the Agreement are reasonable and should be adopted.

V. FINDINGS AND ORDERING PARAGRAPHS

The Commission, having considered the entire record herein, is of the opinion and finds that:

- (1) GTE and PV Tel are telecommunications carriers as defined in Section 13-202 of the Public Utilities Act, (220 ILCS 5/1-101 et seq.) which provide telecommunications services as defined in Section 13-203 of the Public Utilities Act;
- (2) the Commission has jurisdiction of the parties hereto and the subject matter hereof;
- (3) the facts recited and conclusions reached in the prefatory portion of this Order are supported by the record and are hereby adopted as findings of fact and law;

- (4) the Agreement does not discriminate against a telecommunications carrier not a party to the Agreement and is not contrary to the public interest, convenience and necessity;
- (5) in order to assure that the implementation of the Agreement is in the public interest, GTE should implement the Agreement by filing it with the Chief Clerk of the Commission under separate cover within five (5) days of approval by the Commission; the Chief Clerk should place the Agreement in the binder which already contains the agreements approved in past dockets involving negotiated agreements and which is intended to include all future negotiated agreements approved by the Commission under Section 252(e) of the Telecommunications Act;
- (6) within five (5) days of the entry of this Order, GTE should modify its tariffs to reference the negotiated agreement in the manner recommended by Staff and described in the prefatory portion of this Order above;
- (7) the Agreement should be approved as hereinafter set forth;
- (8) approval of this Agreement does not have any precedential affect on any future negotiated agreements or Commission Orders.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that the Agreement between GTE North Incorporated, GTE South Incorporated, and PV Tel Companies, Inc. is approved pursuant to Section 252(e) of the Telecommunications Act of 1996.

IT IS FURTHER ORDERED that GTE shall comply with Findings (5) and (6) hereinabove within five (5) days of the date of this Order.

IT IS FURTHER ORDERED that this Order is final; it is not subject to the Administrative Review Law.

By order of the Commission this 12th day of April, 2000.

Chairman